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Directive 87-2: Motor Vehicles Purchased by Non-residents

Part I: Liability for Use Tax

FACTS: On May 1, Taxpayer Davidson, a resident of another state, was notified by his employer that he would soon be reassigned to a corporate division located in Massachusetts for one year. On June 1, Davidson purchased an automobile in his state of residence, where he registered it. On September 1, he moved to Massachusetts and brought the automobile here. It is assumed that no sales or use tax was due or paid to a state other than Massachusetts, and that the vendor of the vehicle did not collect a sales or use tax at the time of purchase. It is also assumed that Davidson has maintained his domicile in the other state.

ISSUE: Is Davidson liable for the Massachusetts use tax on the automobile he brought into the Commonwealth for his personal use less than six months after its purchase in another state?

DISCUSSION: Massachusetts imposes a use tax on the storage, use or other consumption in the Commonwealth of property purchased for use here. G.L. c. 64I, § 2. Every motor vehicle brought into Massachusetts within six months after its purchase is presumed to have been purchased for storage, use or other consumption within the Commonwealth. G.L. c. 64I, §§ 8(f), 26. The use tax makes no exception for property purchased by non-residents and there is no requirement that the property be used or stored primarily or exclusively in Massachusetts. *Towle v. Commissioner of Revenue*, 397 Mass. 599, 605 (1986).

Three types of transactions are exempt from the use tax. The first type is one in which the Massachusetts sales tax is collected on the sale of the property purchased for use here. G.L. c. 64I, § 7(a). The second is one in which the sale of the property purchased for use here is exempt under the sales tax. G.L. c. 64I, § 7(b). The third is one in which a tax is legally due and paid in another state or territory of the United States on the sale of the property purchased for use here, but only to the extent the foreign tax equals or exceeds the tax that would be imposed in Massachusetts. This exemption only applies, however, if the other state or territory allows a corresponding exemption for sales or use taxes paid to the Commonwealth. G.L. c. 64I, § 7(c); 830 CMR 64H.02(7)(h).

If the presumption of taxability is not rebutted and if none of the exemptions apply, the transaction is subject to the use tax, and the person who uses the property here is liable for the tax imposed. G.L. c. 64I, § 3.

DIRECTIVE: Taxpayer Davidson is liable for the use tax on the automobile he brought into the Commonwealth for personal use on September 1, less than six months after its purchase in another state.

Part II: Payment Procedures

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ISSUE: What procedures must a non-resident follow in order to pay the Massachusetts use tax due upon a motor vehicle?

PROCEDURES: The procedures that a non-resident must follow in order to pay the use tax on a motor vehicle depend on whether or not the vehicle must be registered in Massachusetts pursuant to section three of chapter 90 of the General Laws.

Information on the registration requirements for non-residents may be obtained from:

Registry of Motor Vehicles
100 Nashua Street
Boston, MA 02114

If the vehicle is required to be registered, the non-resident must pay the use tax imposed at the Registry of Motor Vehicles when applying for registration.

If the vehicle is not required to be registered, the non-resident must, on or before the twentieth day of the month following the one in which the vehicle was first used in Massachusetts, file with the Commissioner of Revenue a completed Sales or Use Tax Payment Form (Form ST-7R) and pay the tax due. G.L. c. 62C, § 16(i).

In either case, for use tax purposes, a non-resident will become liable for interest and penalties if he or she fails to pay the tax on or before the twentieth day of the month following the one in which the vehicle is first used here. G.L. c. 62C, §§ 32, 33. These amounts are separate from any amounts that may be due for failure to timely register the motor vehicle.

REFERENCE: G.L. c. 62C, §§ 16(i), 32, 33; G.L. c. 64I, §§ 2, 3, 7, 8(f), 26; G.L. c. 90, § 3; *Towle v. Commissioner of Revenue*, 397 Mass. 599 (1986).

/s/Ira A. Jackson
Ira A. Jackson
Commissioner of Revenue

01 June1987

DD 87-2

This Directive represents the official position of the Department of Revenue on the application of the law to the facts as stated. The Department and its personnel will follow this Directive, and taxpayers may rely upon it, unless it is revoked or modified pursuant to 830 C.M.R. § 62C.01(5)(e). In applying this Directive, however, the effect of subsequent legislation, regulations, court decisions, Directives, and TIRs must be considered, and Department personnel and taxpayers are cautioned against reaching the same conclusions in other cases unless the facts, circumstances and issues are substantially the same.